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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,656	03/23/2004	Seiji Terazawa	2271/60963-B	3983

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EXAMINER

BEATTY, ROBERT B

ART UNIT PAPER NUMBER

2852

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,656

Applicant(s)

TeraZawa et al.
~~HTTP://WWW.USPTO.GOV~~

Examiner

Robert Beatty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 139-165 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 139-156, 164 and 165 is/are rejected.
- 7) ☒ Claim(s) 157-163 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/465,674.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 139,141,148-153,165 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oishi (JP# 08-292636) in view of Ichikawa et al.

Oishi teach a toner container 1 comprising a toner outlet for dispensing toner into an image forming apparatus via gravity when the container is inverted. The container will have a vent hole 9 on the bottom of the container for venting air to

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the container. The vent hole will have a filter 6 covering the hole. The container has a decreasing cross-section toward the outlet forming inclined surfaces wherein the inclined surface are approximately 45 degrees. Specifically, Oishi teach everything claimed except the packing density of the toner within the container being less than 0.7 g/cm^3 . In addition, the intended use in the preamble of the toner container configured for toner replenishment through a blow system comprising an air pump, a nozzle, a toner conduit, and an air conduit is not taught.

Ickikawa et al. teach a toner container that typically have packing densities of about 0.3 g/cm^3 to 0.36 g/cm^3 (col.1, lines 34-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made that toner cartridges would typically be packed with toner below 0.7 g/cm^3 because this is very well known procedure in the art and would allow for using an easy and efficient auger packing method. Further, the intended in the preamble use is given little patentable weight because it recites the intended use of the toner container and the body of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness. See for example, *Kropa v. Robie*, 88 USPQ at 480-481; *Rowe*, 42 USPQ2d at 1553; and *IMS Technology Inc. v Haas Automation Inc.*, 54 USPQ2d 1129,1137.

2. Claim 140 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oishi (JP# 08-292636) in view of Ichikawa et al. as applied to claims 139,141,148-153,165 and further in view of Kitajima (JP# 03-241372).

The combination of Oishi and Ichikawa et al. taught supra discloses most of what is claimed except the toner container being flexible/deformable. Kitajima teach a toner container 40 made from a flexible material 41a. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Oishi's toner container to be flexible because prevention of scattering of toner and a reduction of cost can be obtained as taught in Kitajima.

3. Claims 142-147 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oishi (JP# 08-292636) in view of Ichikawa et al. as applied to claims 139,141,148-153,165 and further in view of Yabaneta (JP# 06-175490).

The combination of Oishi and Ichikawa et al. taught supra, discloses most of what is claimed except the toner container and the image forming apparatus using a mating portion for forming a hermetic sealed outlet and using an airstream to drive the toner out of the toner container.

Yabaneta teach a developing apparatus 6 and a toner container 11 located above. A air suction pump 12 will pump air into the toner container via conduit 16 so that toner can be drawn out via a toner conduit 17 and into a collection well (see Fig. 3 and 6. A trap door 32 will dispense the toner into the developing apparatus.

The toner container has an outlet having a mating portion 37 for mating with the image forming apparatus. The mating portion comprises a tubular body 39 covered by an aluminum foil member 38 and further containing a foam seal 40 and a gasket 45. It would have been obvious to one of ordinary skill in the art at the time the invention was made to seal the connection between the toner container and the image forming apparatus because leaking toner can be prevented. Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use air to deliver toner to an image forming apparatus from a toner container because this is a cleaner delivery scheme as taught in Yabaneta.

4. Claims 154-156, 164 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitajima (JP# 03-241372) in view of Ichikawa et al.

Kitajima teach an toner container 40 comprising a flexible and deformable sack 41a, having a toner outlet 41e sealed with a cap 42, and a tubular mating portion 41c, 41f, 41d so as to tightly mate with a developing station. Since the sack is deformable, variations in air pressure will effect its volume. Rigid position preserving means 41b encircles the container keep the container in the proper attaching position. Specifically, Kitajima teach everything claimed except the packing density of the toner within the container being less than 0.7 g/cm³. In addition, the intended use in the preamble of the toner container configured for

toner replenishment through a blow system comprising an air pump, a nozzle, a toner conduit, and an air conduit is not taught.

Ickikawa et al. teach a toner container that typically have packing densities of about 0.3 g/cm³ to 0.36 g/cm³ (col.1, lines 34-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made that toner cartridges would typically be packed with toner below 0.7 g/cm³ because this is very well known procedure in the art and would allow for using an easy and efficient auger packing method. Further, the intended in the preamble use is given little patentable weight because it recites the intended use of the toner container and the body of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness. See for example, *Kropa v. Robie*, 88 USPQ at 480-481; *Rowe*, 42 USPQ2d at 1553; and *IMS Technology Inc. v Haas Automation Inc.*, 54 USPQ2d 1129,1137.

5. Claims 157-163 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Applicant's arguments with respect to claims 139-165 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Beatty whose telephone number is (571) 272-2130. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley, can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned

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is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

A handwritten signature in black ink, appearing to read "Robert Beatty". The signature is fluid and cursive, with the first name "Robert" and last name "Beatty" clearly distinguishable.

Robert Beatty
Primary Examiner
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July 13, 2005